

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 166

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO CRIMINAL LAW; REVISING THE CRIME OF STALKING;
ADDING DEFINITIONS; AMENDING SECTIONS OF THE CRIMINAL CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-3A-1 NMSA 1978 (being Laws 1997,
Chapter 10, Section 1) is amended to read:

"30-3A-1. SHORT TITLE.--~~[Sections 1 through 5 of this
act]~~ Chapter 30, Article 3A NMSA 1978 may be cited as the
"Harassment and Stalking Act"."

Section 2. Section 30-3A-3 NMSA 1978 (being Laws 1997,
Chapter 10, Section 3) is amended to read:

"30-3A-3. STALKING--PENALTIES.--

~~[A. Stalking consists of a person knowingly
pursuing a pattern of conduct that would cause a reasonable
person to feel frightened, intimidated or threatened. The~~

.177496.2

underscored material = new
[bracketed material] = delete

1 ~~alleged stalker must intend to place another person in~~
2 ~~reasonable apprehension of death, bodily harm, sexual assault,~~
3 ~~confinement or restraint or the alleged stalker must intend to~~
4 ~~cause a reasonable person to fear for his safety or the safety~~
5 ~~of a household member. In furtherance of the stalking, the~~
6 ~~alleged stalker must commit one or more of the following acts~~
7 ~~on more than one occasion:~~

8 ~~(1) following another person, in a place other~~
9 ~~than the residence of the alleged stalker;~~

10 ~~(2) placing another person under surveillance~~
11 ~~by being present outside that person's residence, school,~~
12 ~~workplace or motor vehicle or any other place frequented by~~
13 ~~that person, other than the residence of the alleged stalker;~~
14 ~~or~~

15 ~~(3) harassing another person.~~

16 ~~B. As used in this section, "household member"~~
17 ~~means a spouse, former spouse, family member, including a~~
18 ~~relative, parent, present or former stepparent, present or~~
19 ~~former in-law, child or co-parent of a child, or a person with~~
20 ~~whom the victim has had a continuing personal relationship.~~
21 ~~Cohabitation is not necessary to be deemed a household member~~
22 ~~for the purposes of this section.]~~

23 A. Stalking consists of knowingly pursuing a
24 pattern of conduct, without lawful authority, directed at a
25 specific individual when the person knows or should know that

1 the pattern of conduct would place the individual in reasonable
2 apprehension of death, bodily harm, sexual assault, confinement
3 or restraint of the individual or another individual.

4 B. As used in this section:

5 (1) "lawful authority" means within the scope
6 of lawful employment or constitutionally protected activity;
7 and

8 (2) "pattern of conduct" means two or more
9 acts, on more than one occasion, in which the alleged stalker
10 by any action, method, device or means, directly, indirectly or
11 through third parties, follows, monitors, surveils, threatens
12 or communicates to or about a person or interferes with a
13 person's property.

14 C. Whoever commits stalking is guilty of a
15 misdemeanor. Upon a second or subsequent conviction, the
16 offender is guilty of a fourth degree felony.

17 D. In addition to any punishment provided pursuant
18 to the provisions of this section, the court shall order a
19 person convicted of stalking to participate in and complete a
20 program of professional counseling at [~~his~~] the person's own
21 expense or a domestic violence offender treatment or
22 intervention program."

23 Section 3. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2009.